



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2014-0729]

RIN 1625-AA08

Special Local Regulation; Detroit Offshore Grand Prix, Detroit River, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing a Special Local Regulation for a series of powerboat races located in the Captain of the Port Detroit Zone on the Detroit River, Detroit, Michigan. This action is necessary to provide for the safety of life and property on navigable waters during this event. This special local regulation will establish restrictions upon, and control movement of, vessels in a portion of the Detroit River during the Detroit Offshore Grand Prix events.

DATES: This temporary final rule is effective from 12 p.m. on September 6 until 6 p.m. on September 7, 2014; and will be enforced from 12 p.m. to 6 p.m. on September 6, 2014, and from 11 a.m. to 6 p.m. on September 7, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2014-0729. To view documents mentioned in this preamble as being available in the docket, go to [www.regulations.gov](http://www.regulations.gov), type the docket number in the "SEARCH" box, and click "Search." You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568-9508, e-mail [Adrian.F.Palomeque@uscg.mil](mailto:Adrian.F.Palomeque@uscg.mil). If you have questions on viewing the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826, or 1-800-647-5527.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
TFR	Temporary Final Rule

#### A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule

without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking with respect to this rule because waiting for a notice and comment period to run would be impracticable, unnecessary, and contrary to the public interest. The final details of this boat race were not known to the Coast Guard with sufficient time for the Coast Guard to solicit public comments before the start of the event. Thus, delaying this temporary rule to wait for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public from the hazards associated with power boat race.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the

public interest.

#### B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to issue regulations to promote the safety of life on navigable waters during regattas or marine parades: 33 U.S.C. 1233.

The Coast Guard was informed that on September 6, 2014 from 12 p.m. until 6 p.m., and on September 7, 2014 from 11 a.m. to 6 p.m., OPA Racing LLC will hold powerboat races that will require the immediate area to be clear of all vessel traffic. The likely combination of powerboats traveling at high speeds, large numbers of recreation vessels, and large numbers of spectators in close proximity to the water could result in serious injuries or fatalities. Thus, the Captain of the Port Detroit has determined that establishing a Special Local Regulation around the location of the race's course will help minimize risks to safety of life and property during this event.

#### C. Discussion of Rule

In light of the aforementioned hazards, the Captain of the Port Detroit has determined that a Special Local Regulation is necessary to protect spectators, vessels, and participants. The Special Local Regulation will encompass all U.S. waters of the Detroit River, beginning at a point on land near the Chene Park Pavilion at position 42°20'03"N, 083°01'12"W; southerly to the

international boundary at position 42°19'47"N, 083°01'04"W; then downriver along the international boundary to position 42°18'53"N, 083°04'07"W; then northerly to a point on land approximately 650 yards upriver from the Ambassador Bridge at position 42°19'03"N, 083°04'12"W; before proceeding along the shoreline upriver to the point of origin. All geographic coordinates are North American Datum of 1983 (NAD 83). This regulation will be enforced from 12 p.m. to 6 p.m. on September 6, 2014, and from 11 a.m. to 6 p.m. on September 7, 2014.

Entry into, transiting, or anchoring within the regulated area is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based these statutes or executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an

assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The special local regulation created by this rule will be of relatively small size and short duration, and it is designed to minimize the impact on navigation. Moreover, vessels may still transit through the regulated area when permitted by the Captain of the Port or his on-scene representative.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and

governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in this portion of the Detroit River adjacent to Detroit, MI between the hours 12 p.m. to 6 p.m. on September 6, 2014, and from 11 a.m. to 6 p.m. on September 7, 2014.

This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will only be in effect and enforced for six hours on September 6, and seven hours on September 7. Traffic may be allowed to pass through the regulated area with the permission of the Captain of the Port, who can be reached via VHF channel 16. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect, allowing vessel owners and operators to plan accordingly.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule to that they

can better evaluate its effects on them. If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national



government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or

otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a special local regulation issued in conjunction with a regatta or marine parade, and, therefore it is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. During the annual permitting process for this event an environmental analysis was conducted, and thus, no preliminary environmental analysis checklist or Categorical Exclusion Determination (CED) are required for this rulemaking action. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.T09-0729 to read as follows:

§ 100.T09-0729 Special Local Regulation; Detroit Offshore Grand Prix, Detroit, MI.

(a) Regulated Area. A regulated area is established to include all U.S. waters of the Detroit River, beginning at a point on land near the Chene Park Pavilion at position 42°20'03"N, 083°01'12"W; southerly to the international boundary at position 42°19'47"N, 083°01'04"W; then downriver along the international boundary to position 42°18'53"N, 083°04'07"W; then northerly to a point on land approximately 650 yards upriver from the Ambassador Bridge at position 42°19'03"N, 083°04'12"W; before proceeding along the shoreline upriver to the point of origin (NAD 83).

(b) Effective and enforcement period. This section is effective from 12 p.m. on September 6 until 6 p.m. on September 7, 2014; and will be enforced from 12 p.m. to 6 p.m. on September 6, 2014, and from 11 a.m. to 6 p.m. on September 7, 2014.

(c) Regulations. (1) No vessel may enter, transit through, or anchor within the regulated area unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) Commercial vessels will have right-of-way over event

participants. The races will stop for oncoming freighter or commercial traffic and will resume after the vessel has completed its passage through the regulated area.

(3) The "on-scene representative" of the Captain of the Port Detroit is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port Detroit to act on his behalf.

(4) Vessel operators desiring to enter or operate within the regulated area shall contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the Captain of the Port Detroit or his on-scene representative. The Captain of the Port Detroit or his on-scene representative may be contacted via VHF Channel 16 or at 313-568-9464.

DATED: August 18, 2014

S. B. LEMASTERS  
Captain, U. S. Coast Guard,  
Captain of the Port Detroit.

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